

REMARKS

Claims 1, 3-7, 10, 11, 13, 18, 20, 21, 23, 24, 26-28 and 30-36 are allowed. Applicant respectfully requests reconsideration of claim 12 by the Examiner in light of the following remarks.

I. Rejection Under 35 USC §102

Claim 12 stands rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 7,099,718 to Thacker, et al. ("Thacker"). Applicants respectfully assert that claim 12 is patentably distinguishable from Thacker and the rejection is respectfully traversed.

Claim 12 sets forth a tip electrode extending outward from the distal end of the lead body, and a glue segment extending outward from the distal end of the lead body and disposed within said tip electrode to affix said electrode to a treatment site, wherein the glue segment is encapsulated within a biocompatible capsule. The limitation of "distal end of the lead body," when properly construed in view of the specification, means the terminal end point of the lead body. This is clearly indicated by the structure shown in Fig. 1.

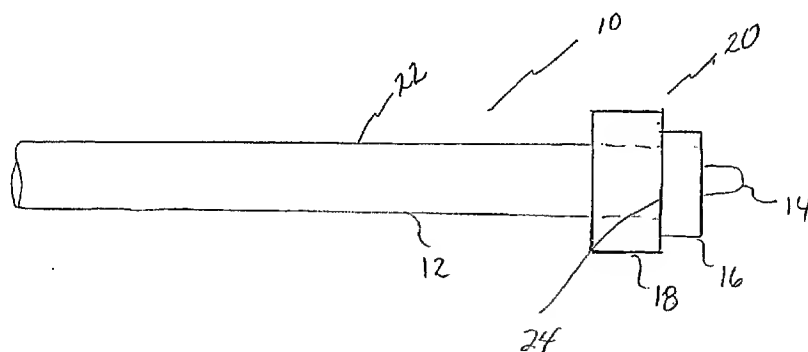
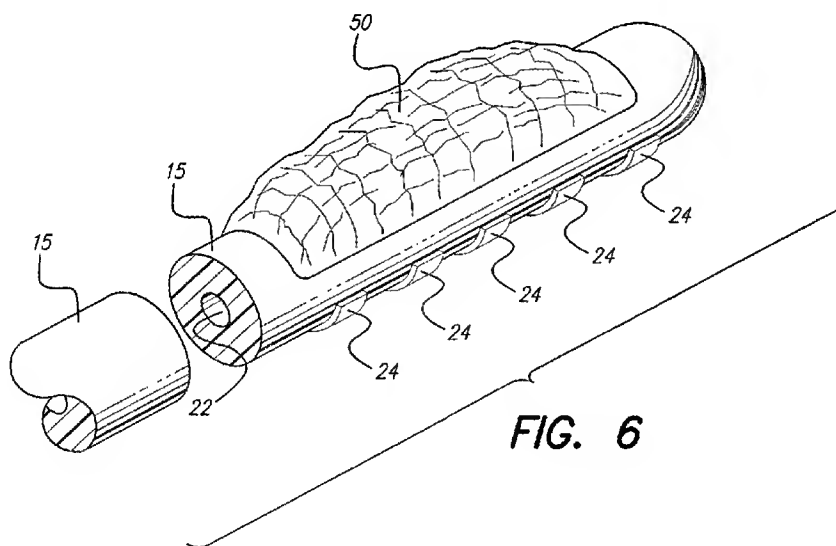


FIG. 1

From this terminal, distal end point, an electrode 14 extends outwardly in a direction that is along the longitudinal axis of the elongated lead body.

The Examiner relies upon Fig. 6 of Thacker in finding disclosure of a tip electrode extending from a distal end of the lead body. The Examiner, without any description in Thacker of such a structure, characterizes the lead body as having a “larger portion” and a “smaller portion.” The Examiner then characterizes the smaller portion as constituting a distal end and characterizes the larger portion as being a tip electrode that extends from the so-called distal end. What Thacker actually shows in Fig. 6, however, is merely a circumferential electrode structure 24 wrapped around an intermediate portion of the continuous, cylindrical lead body 15, which is proximal of the lead body distal end, i.e. terminal point of the lead body. The “larger portion” is merely the addition of a sponge material 50 to the exterior of the lead body (“Thus, as illustrated in Fig. 6, a spongy, flexible and/or compressible portion 50 is formed **on the lead 15**, opposite the electrodes 24.” (emphasis added) Col. 8, lines 23-25)



The express disclosure of Thacker is that there is a single, continuous structure for lead 15. There is no “larger portion” and “smaller portion.” There is only a single, continuous lead body structure having electrodes and a sponge attached to the lead body exterior surface proximal to the terminal end point of the lead body.

The Examiner’s characterization of the lead body shown in Fig. 6 of Thacker is erroneous and without support in the express or inherent disclosure of Thacker.

Thacker is mischaracterized to provide a basis for a correspondence with claimed subject matter. The rejection, therefore, should be withdrawn.

By this response, Applicants have also amended claim 12 to specify that an elongated lead body terminates in a distal end surface. Amended claim 12 also recites a tip electrode and a glue segment, which extend outward from the distal end surface of the lead body in a direction that is substantially aligned with the longitudinal axis of the elongated lead body. In Thacker, the electrodes are disposed in an intermediate segment of the elongated lead body, which is proximal to the terminating end surface of the lead body. Also in Thacker, the electrodes extend outward from the surface of the intermediate portion of the elongated lead body surface in a direction that is transverse to the longitudinal axis of the elongated lead body. Thus, regardless of the characterization of Thacker in regard to having an enlarged distal tip portion at the end of a lead body, the electrodes 24 do not extend from a terminating distal end surface in a direction that is substantially aligned with the longitudinal axis of the elongated lead body 15.

II. Conclusion

Applicants assert that the remarks presented herein are fully responsive to the Office Action and are sufficient to overcome the rejections presented in the Office Action. However, there may be other arguments to be made as to why the pending claims are patentable. Applicants do not concede any such arguments by having not presented them herein.

Please grant any extension of time, if necessary for entry of this paper, and charge any fee due for such extension or any other fee required in connection with this paper to Deposit Account No. 13-2546.

Should any issues remain outstanding, the Examiner is urged to telephone the undersigned to expedite prosecution.

Respectfully submitted,

Date January 12, 2009

/Carol F. Barry/
Carol F. Barry
Reg. No. 41,600
(763) 526-0932
Customer No. 27581